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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by International Educational Development, Inc., a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[19 March 1998]

Arbitrary detention of Latin Americans of Japanese ancestry

1. Between 1942 and 1948 the United States carried out a programme of abduction, detention and deportation of Latin Americans of Japanese ancestry as part of its Second World War military action. During the years of operation, 2,264 Latin Americans from Peru, Bolivia, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama and Venezuela were seized in their countries and shipped to United States detention centres in Panama and the United States. Of the 2,264, about 1,800 were from Peru and most of these were Peruvian citizens - the others being legal resident aliens. These abductions took place devoid of any due process rights: no warrants, no hearings and no appeal.

2. Many of the Latin Americans held in Panama were subjected to hard labour. About 960 Latin Americans from camps in both Panama and the United States were shipped to Japan during the Second World War in exchange for Japanese-held American prisoners of war and civilians. At the end of the war most of the Latin American countries refused to accept back their citizens. Declared "illegal aliens" by the United States, 900 were deported to Japan between 1945 and 1946. Another 360 were given suspended deportation orders and eventually 300 stayed in the United States; 200 others made their way back into countries in Latin America, with about 79 allowed to return to Peru.

3. The United States began this programme by seeking agreements with Latin American countries before its entry to the Second World War. Brazil, Uruguay and Paraguay operated their own internment programme. Only Argentina and Chile refused (see United States Department of State Bulletin, 6 August 1944, Department of State File 740.00115 Pacific Way/53, RG59, National Archives, especially its discussion of the Conference of Foreign Ministers of the American Republics (Rio de Janeiro, 1942) and its Emergency Committee for Political Defense, to carry out "hemispheric removals ... for their mutual protection"). At no time during the pre-programme discussion and during the actual abduction programme did the United States or any other participating country articulate specific charges against any Latin American of Japanese ancestry relating to war security. In particular, there was no evidence presented showing any planned action of espionage, sabotage or subversion by any persons abducted

4. The United States own documents indicate that originally the United States contemplated using American citizens of Japanese ancestry to provide people to be exchanged for Japanese-held American citizens in the event that the United States entered into the war against Japan. However, administration officials feared that if actual American citizens were used, the American people as a whole would protest. These officials believed that secret abductions of Latin Americans and their being kept incommunicado in Panama and secret United States camps would be easier to hide from the American public and therefore did not risk public outcry. In fact, the American people have only found out about this programme in recent years, when the United States began a programme of compensation for Japanese-Americans held in camps during the same period.

5. There is substantial evidence that rather than having any relationship to military necessity, the Latin American countries used the programme to rid

themselves of Japanese, who first immigrated to Peru, for example, in 1899. The Japanese became prosperous and were targeted with racist and discriminatory policies and attitudes by their Governments and the general population.

6. At the time this programme was in operation, international humanitarian law clearly forbade wartime abduction, incarceration and deportation of civilians from friendly countries. Exchange of civilians from a friendly country to an enemy third party was viewed as especially serious and, in this case, met the criteria of hostage-taking: detention or exchange of persons for reasons unconnected with criminal matters or other justifiable cause. International law also forbade slavery and forced labour (the conditions of the Latin Americans held in the Panama camps clearly met the then-existing prohibition against slavery and forced labour) whether in peacetime or in war. The Charter of the International Military Tribunal (Nürnberg Charter), the Charter of the Military Tribunal for the Far East (Tokyo Charter) and the earlier Control Council Law 10 set out these acts as war crimes and crimes against humanity at the time of the Second World War. The United States recognized that these same acts violated the rules of war as early as 1863 (see, e.g. article 23 of General Order No. 100 of the United States Army (1863) (known as the Leiber Code): "Private persons are no longer murdered, enslaved, or carried off to distant parts ...").

7. In 1988 the United States began a programme to provide compensation of $20,000 to "United States citizens and permanent resident aliens of Japanese ancestry during World War II" (United States Civil Liberties Act of 1988, 50 U.S.C. App. Sec. 1989 et seq., as amended) (the CLA). The CLA excludes the Latin Americans of Japanese ancestry, and, except for some Latin Americans who became "retroactive" American citizens, the rest have not received compensation under the CLA or any other law or compensation programme of the United States. In 1997 an action was filed by certain victims for themselves and all others denied compensation. (Mochizuki v. US, No. 97-294C (C.D. CA, filed 16 May 1997.)) In addition to alleging that the plaintiffs suffered violation of then-existing international law, the suit alleges discrimination based on national or ethnic origin because they are excluded from the CLA. Statutory limitations cannot be applied to this case because the alleged acts are war crimes and crimes against humanity which are not subject to such limitations. In this light we draw particular attention to the work of both the Commission and the Sub-Commission in the right to restitution, compensation and rehabilitation for victims of gross violations of human rights.

8. International Educational Development brings this to the attention of the Commission on Human Rights because we are convinced that these victims and all other victims of violations of the rules of war during the Second World War should immediately receive adequate compensation. Our organization views it imperative that all issues arising from the Second World War be resolved in keeping with the spirit and goals of the Charter of the United Nations.

9. We have brought to the attention of the Commission and the Sub-Commission a wide range of issues from the Second World War that are still unsettled: compensation for Japan's many war crimes victims; resolution of cases arising from monetary seizures and insurance fraud; compensation for new

claimants against Germany who were formerly prevented from seeking compensation under existing schemes; and compensation for the Latin Americans of Japanese ancestry. Other claims exist that are credible and warrant attention. We are convinced that failure to adequately address even the facts relating to the Second World War coupled with a blatant refusal of especially Japan and the United States to compensate has encouraged parties in present-time conflicts to carry out the same violations: hostage-taking, mass deportations, genocide, rape, slavery. The parties to the Second World War should not be allowed to unilaterally absolve themselves from acts they committed; the international community as a whole must insist on full disclosure of all the facts. All victims must receive full compensation, including genuine apology.